

## SCHEDULE 2

Regulation 5(2)(b)

### Powers under the Consumer Protection Act 1987

#### Enforcement powers under the 1987 Act

1. For the purposes of enforcing the MSC Regulation and the enforcer's legislation, the following provisions of the 1987 Act apply subject to the modifications in paragraph 2—

- (a) section 13 (prohibition notices and notices to warn);
- (b) section 14 (suspension notices);
- (c) section 16 (forfeiture: England and Wales and Northern Ireland) as it applies to Northern Ireland;
- (d) section 18 (power to obtain information);
- (e) section 19 (interpretation of Part 2);
- (f) section 29 (powers of search etc);
- (g) section 30 (provisions supplemental to section 29);
- (h) section 31 (powers of customs officer to detain goods);
- (i) section 33 (appeals against detention of goods);
- (j) section 34 (compensation for seizure and detention);
- (k) section 35 (recovery of expenses of enforcement);
- (l) section 37 (power of Commissioners for Revenue and Customs);
- (m) section 45 (interpretation);
- (n) in section 46—
  - (i) subsection (1) (meaning of “supply”);
  - (ii) subsection (7)(a) and (b) so far as having effect for the purposes of section 16(7)(a);
- (o) Schedule 2 (prohibition notices and notices to warn).

#### Commencement Information

II Sch. 2 para. 1 in force at 16.7.2021, see [reg. 1\(1\)](#)

#### Modifications to the 1987 Act

2. The sections of the 1987 Act referred to in paragraph 1 apply as if—

- (a) in section 13—
  - (i) in subsection (1), for “unsafe” on each occasion that it appears, there were substituted “non-compliant”;
  - (ii) in subsection (1), “relevant” were omitted each time it appears;
  - (iii) in subsection (2), the words from “; and the Secretary of State may” to the end were omitted;
  - (iv) subsections (4) to (7) were omitted;
- (b) in section 14—
  - (i) in subsection (1), after “any safety provision has been contravened in relation to any goods”, there were inserted “or that the goods present a risk”;

**Changes to legislation:** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Market Surveillance (Northern Ireland) Regulations 2021. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (ii) in subsection (2)(b), after “any safety provision has been contravened in relation to the goods”, there were inserted “ or that the goods present a risk ”;
- (iii) in subsection (2)(c), “under section 15 below” were omitted;
- (iv) in subsection (4)(a), omit the words “(not being an offence under this section)”;
- (v) subsections (6) to (8) were omitted;
- (c) in section 16—
  - (i) in subsection (1)—
    - (aa) the words “England and Wales or” were omitted; and
    - (bb) after “a contravention in relation to goods of a safety provision” there were inserted “ or that the goods present a risk ”;
  - (ii) for subsection (2)(b) there were substituted—
    - “(b) where an application with respect to some or all of the goods has been made to a magistrates’ court under paragraph 4 of Schedule 4 (appeals against notices) to the 2021 Regulations, or under section 33, to that court; and”;
  - (iii) in subsection (3) after “a contravention in relation to goods of a safety provision” there were inserted “ or that the goods present a risk ”;
  - (iv) after subsection (4) there were inserted—
    - “(4A) A court may infer for the purposes of this section that any goods present a risk if it is satisfied that a risk is presented by goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).”;
  - (v) in subsection (5), paragraph (a) and the words “section 111 of the Magistrates’ Court Act 1980 or” were omitted;
- (d) in section 18, subsections (3) and (4) were omitted;
- (e) in section 29—
  - (i) in subsection (4)—
    - (aa) for “the United Kingdom” substitute “ Northern Ireland ”;
    - (bb) in paragraph (a) after “any contravention of any safety provision in relation to the goods” there were inserted “ or whether the goods present a risk ”;
    - (cc) in paragraph (b), after “any such contravention” there were inserted “ or whether the goods present a risk ”;
  - (ii) after subsection (9), there were inserted—
    - “(10) In this section, “imported goods” means goods that are in Northern Ireland as a result of having been brought there from a place in Great Britain or outside the United Kingdom.”;
- (f) in section 30—
  - (i) in subsection (2), for “justice of the peace” there were substituted “ lay magistrate ”, and for “the justice” there were substituted “ the lay magistrate ”;
  - (ii) at the end of subsection (2)(a)(ii), for “and” there were substituted “ or ”;
  - (iii) after subsection (2)(a)(ii), there were inserted—
    - “(iii) that any goods which any officer has power to inspect under section 29(4) are on any premises and their inspection is likely to demonstrate that they present a risk; and” and

- (iv) subsections (5), (7), (8) and (9) were omitted;
- (g) in section 31—
  - (i) in subsection (1), for “Part II of this Act”, there were substituted “ the Market Surveillance Regulation or the enforcer's legislation (within the meaning of the 2021 Regulations) ”;
  - (ii) after subsection (4), there were inserted—

“(5) In this section, “imported goods” means goods that are in Northern Ireland as a result of having been brought there from a place in Great Britain or outside the United Kingdom.”
- (h) in section 33—
  - (i) in subsection (2)(a) the words “England and Wales or” were omitted;
  - (ii) in subsection (2)(b), the word “or” were omitted;
  - (iii) subsection (2)(c) was omitted;
  - (iv) in subsection (3), in the words before paragraph (a), the words “or to the sheriff” and “or sheriff” were omitted;
  - (v) in subsection (4)—
    - (aa) in the words before paragraph (a), the words “England and Wales or” were omitted;
    - (bb) paragraph (a) was omitted;
    - (cc) in the words after paragraph (b), the words “section 111 of the Magistrates' Courts Act 1980 or” were omitted;
- (i) in section 34—
  - (i) the word “and” at the end of subsection (1)(a) were omitted; and
  - (ii) in subsection (1), after paragraph (a), there were inserted—

“(aa) the goods do not present a risk; and”;
- (j) in section 37—
  - (i) in subsection (1), for “Part II of this Act”, there were substituted “ the Market Surveillance Regulation or the enforcer's legislation (within the meaning of the 2021 Regulations) ”;
  - (ii) after subsection (4), there were inserted—

“(5) In this section, “imported goods” means goods that are in Northern Ireland as a result of having been brought there from a place in Great Britain or outside the United Kingdom.”;
- (k) in section 45(1)—
  - (i) the definitions of “conditional sale agreement”, “credit-sale agreement”, “gas”, “motor vehicle”, and “subordinate legislation” were omitted;
  - (ii) before the definition of “aircraft”, there were inserted—

““the 2021 Regulations” means the Market Surveillance (Northern Ireland) Regulations 2021;”
  - (iii) before the definition of enforcement authority there were inserted—

““economic operator” has the same meaning as in the Market Surveillance Regulation;”;
  - (iv) for the definition of “enforcement authority” there were substituted—

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Market Surveillance (Northern Ireland) Regulations 2021. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

““enforcement authority” means an enforcer within the meaning of the 2021 Regulations;”;

(v) after the definition of enforcement authority there were inserted—

““the Market Surveillance Regulation” means Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011;”;

(vi) for the definition of “goods” there were substituted—

““goods” means products to which the 2021 Regulations apply;”;

(vii) after the definition of “modifications” there were inserted—

““non-compliant” in relation to any goods means that—

- (a) a safety provision has been contravened in relation to the goods, or
- (b) the goods present a risk,

and the goods are “compliant” if they are not non-compliant;”;

(viii) after the definition of “premises”, there were inserted—

“goods “present a risk” if they have the potential to affect adversely—

- (a) health and safety of persons in general;
- (b) health and safety in the workplace;
- (c) protection of consumers;
- (d) the environment;
- (e) public security; and
- (f) other public interests,

to a degree which goes beyond that considered reasonable and acceptable in relation to their intended purpose or under the normal or reasonably foreseeable conditions of use of the goods, including the duration of use and, where applicable, their putting into service, installation and maintenance requirements;”;

(ix) for the definition of “safety provision” there were substituted—

““safety provision” means any provision imposing an obligation in relation to goods on an economic operator in—

- (a) the Market Surveillance Regulation; or
- (b) the, or (as the context requires) any, enforcer's legislation (within the meaning of the 2021 Regulations);”;

(x) for the definition of “safety regulations” there were substituted—

““safety regulations” means—

- (a) the Market Surveillance Regulation; and
- (b) the, or (as the context requires) any, enforcer's legislation (within the meaning of the 2021 Regulations);”;

(l) subsection 45(5) were omitted;

(m) in subsection 46(1)—

(i) in the words before paragraph (a), the words “Subject to the following provisions of this section,” were omitted; and

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Market Surveillance (Northern Ireland) Regulations 2021. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (ii) after paragraph (f), the words “and, in relation to gas or water, those references shall be construed as including references to providing the service by which the gas or water is made available for use” were omitted;
- (n) in Schedule 2—
  - (i) for “unsafe”, on each occasion that it appears, there were substituted “ non-compliant ”; and
  - (ii) for “safe” on each occasion that it appears, there were substituted “ compliant ”.

---

**Commencement Information**

**I2** Sch. 2 para. 2 in force at 16.7.2021, see [reg. 1\(1\)](#)

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Market Surveillance (Northern Ireland) Regulations 2021. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 1 para. 16(3)(a)(v) inserted by [S.I. 2024/221 reg. 26\(b\)\(ii\)](#)